

# **REINVENTING RULEMAKING**

## **PARTNERS IN PROGRESS LOCAL GOVERNMENT & THE ENVIRONMENTAL PROTECTION AGENCY**

**FEDERAL ADVISORY COMMITTEE  
LOCAL GOVERNMENT ADVISORY COMMITTEE  
ACCESS TO RULEMAKING SUBCOMMITTEE**

## Committee Members:

Mr. James D. Cole

Chairman

Genesee County Commissioner

Flint Michigan

Ms. Amy Swann

Director, Public Service District Division

West Virginia Public Service Commission

Mr. Carl Flora

Deputy Commissioner

Maine Department of Agriculture, Food, and Rural

Resources

Ms. Joanne Zaumetzer

New York State County Legislators and Supervisors

Wilmington, New York

Ms. Lillian Kawasaki

General Manager

Department of Environmental Affairs

City of Los Angeles

Mr. Francois Narce - Bernard

Director, Planning and Budget Department

Municipality of Tao Baja, Puerto Rico

# EXECUTIVE SUMMARY OF REPORT

The Local Government Advisory Committee is made up of government officials from all over the United States. This Advisory Committee was formed in 1993. During its first meeting Administrator Carol Browner appeared and reaffirmed her commitment to a more responsive Environmental Protection Agency. Various subcommittees of the FACA were created to help the Agency achieve this goal. The Administrator is commended for her many initiatives in re-inventing the USEPA. We have representatives from all forms of local government including state, county, city, and township government and both legislative and executive branches of government who are keenly interested in strengthening the EPA-Local Government relationship.

The achievement of a process which integrates Local government input into the rulemaking process is the ultimate goal of this Federal Advisory Committee. The LOCAL GOVERNMENT ADVISORY COMMITTEE has looked at ways of strengthening the EPA-Local Government Partnership. The primary focus of the recommendations from the ACCESS TO RULEMAKING SUBCOMMITTEE is the improvement of both accessibility to the rulemaking process, as well as the active participation and increased accountability of all parties in the rulemaking process. The adoption of these recommendations will result in improving the customer based approach.

The Access to Rulemaking Subcommittee of the Local Government Advisory Committee has had extensive discussions with a variety of government organizations in local, state and federal programs and has reached the following primary conclusions in addition to the recommendations it will make:

1. Local government is primarily responsible and pays for the implementation of many key environmental protection programs.
2. It is necessary to improve the interaction between local government and state and federal regulators to increase local government input into the rulemaking process.
3. Organizational barriers must be eliminated since the current bureaucratic system works against state and local government input into the rulemaking process.
4. Local and state governments need to be treated as valued and equal partners in environmental regulations development and their input should be solicited and incorporated in regulatory development throughout the process.
5. The EPA must fundamentally change its approach to incorporate local and state government input into the rulemaking process, beginning first with its leadership and continuing throughout its organization.
6. The Agency must change from a Command and Control-Media Specific Local and State Government approach to a Results Oriented-Integrated Local and State Government Approach.



# SUMMARY OF COMMITTEE RECOMMENDATIONS

## 1. ORGANIZATION CHANGES

### A. EPA

1. Create a LOCAL GOVERNMENT ADVOCATE in the EPA.
2. Identify Local/State Government Contacts in the EPA.
3. Reallocate Personnel with Local/State Government Office responsibilities within the EPA.
4. Establish Minimum Local or Regional Experience Standards for Rule Writers for Local Government Rules.

### B. LOCAL GOVERNMENT

1. Establish a Independent Local Government Coordinating Organization to represent local and state governments in the regulatory process.
2. Establish Regulatory Development Teams.

## 2. PROCEDURAL CHANGES

- A. Require EPA contact with Local/State Government on all rules impacting Local/State Government and report all Local/State Government contact and input on rules and regulations.

B. Establish Waiver and Exemption Procedures for Local Government and flexible application of testing requirements and rules as needed by geographic region.

C. Identify health-based risk assessment and impacted parties, establish cost estimates for new rules and regulations and conduct cost/benefit analysis.

D. Require extensive collaboration and/or regulatory negotiations with local/state government and establish Pre-Regulatory Agenda Regulatory Consultations.

### 3. INFORMATION NEEDS

A. Improve Quality of Information in the Regulatory Agenda.

B. Improve Accessibility to Regulatory Agenda.

### 4. PARTNERSHIP CHANGES

A. Establish Joint Program Initiatives between EPA-Local/State Government.

B. Develop Effective Partnership on Region-by-Region Rule Implementation for Uniformity, Consistency and Regulatory Flexibility.

C. Expand Local/State Government standing and participation in regulation development.

## **5. LEGAL CHANGES**

- A. Amend the Regulatory Flexibility Act.**
- B. Establish Local Government Advocate Program in the EPA**

## **6. MONITORING, EVALUATION AND REPORT OF PROGRAMS SUCCESS**

- A. Evaluate EPA-Local/State Government Program Implementation.**
- B. Establish monitoring and reporting on progress.**

# REINVENTING RULEMAKING

The Environmental Protection Agency is undergoing a dramatic change as it looks inward to improve both internal performance, as well as enhance its overall external performance. In order to achieve the goal of improved performance, it has looked to a number of special committees of advisors to evaluate past performance and recommend new ways of achieving better performance in the future.

One such committee is the Local Government Advisory Committee. This Federally Chartered committee is charged with improving the performance of the Agency, while at the same time increasing both the communication between the Agency and local government and beginning the process of facilitating a stronger partnership. In order to change the fundamental relationship that exists between the EPA and local and state government, a number of different parameters must be adopted.

## CURRENT EPA-LOCAL GOVERNMENT RELATIONSHIP

Local and state Government is often left to coordinate and fund a number of federal environmental laws including Superfund, Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, Safe Drinking Water Act and SARA Title III.

### State and Local Government Costs for Environmental Management\*

- State and local governments were responsible for 87% of all expenditures for environmental management in 1987, a number that is expected to rise to 92% by 2000.
- Local governments carried 82% of the share in 1987 while State governments contributed 5%. By 2000, local governments are expected to carry 87% of the share, with State governments continuing to contribute 5%.
- State and local government expenditures on environmental management was estimated to be approximately \$40 billion annually in 1987. This figure is estimated to rise to over \$55 billion in 2000.
- Expenditures for compliance with the Clean Water Act accounted for 41% of the total environmental expenditures in 1987 and were expected to rise to 46% by 2000.



- Expenditures for compliance with the Safe Drinking Water Act accounted for 38% of the total environmental expenditures in 1987 and were expected to rise to 40% by 2000.
- State and local governments raise funds to pay for environmental management services through the imposition of taxes, user fees, disposal fees, license and permit fees, and the issuance of bonds. Federal assistance in the form of loans and grants was estimated to account for less than 25% of all public capital outlays for environmental management in 1987.
- Local demand for capital formation to support environmental management was approximately \$8 billion in 1981, a figure that is expected to double by 2000.

**Public Expenditures to Maintain Current (1987) Levels of Environmental Quality (In Billions of 1988 Dollars)**

Year	U.S. EPA		State Governments		Local Governments		Total	
	Amount	Percent Share	Amount	Percent Share	Amount	Percent Share	Amount	Percent Share
1981	\$6.3	18%	\$2.0	6%	\$26.3	76%	\$34.6	100%
1987	\$5.0	13%	\$2.1	5%	\$32.6	82%	\$39.7	100%
2000	\$4.3	8%	\$2.6	5%	\$48.4	87%	\$55.3	100%

---

\*All data from *A Preliminary Analysis of the Public Costs of Environmental Protection*: 1981-2000, U.S. Environmental Protection Agency, May 1990

The difficulty lies in the fact that often state, county, municipal, and township governments have no formalized process for input into the need for given regulations, the method chosen for implementation of a given rule, and the likely impact of a given regulation until they are being forced to implement the regulations. The result is that local governments are required to implement regulations with little if any flexibility to achieve the goals intended by both the Congress and the



Environmental Protection Agency. Small and large communities suffer under tremendous financial burdens while often achieving limited results.

The lack of input into the initial lawmaking process slows down implementation of a variety of environmental protection laws. Many communities cannot implement the developed rules, and others waste endless hours and taxpayers dollars attempting to comply with regulations which may not have the intended impact and often result in the reallocation of limited resources from other higher priority issues.

Recommendation: The current problem is that local and state government now is only heard after the process is completed. When local and state governments are attempting to implement environmental laws, it is too late to identify significant roadblocks for their region. In order to achieve successful involvement in the rulemaking process, it is necessary for local and state government to be involved from the very beginning of the rulemaking process.

### **Fundamental Change**

Fundamental change is necessary in order to improve the relationship. The first question the committee examined was what type of relationship has existed in the past.

One of the inherent problems in the system is the extensive bureaucracy. Local governments often have to work through state bureaucracies, regional bureaucracies and national bureaucracies to get answers to their questions. The focus within the Agency has primarily been placed upon working with state government environmental regulatory agencies. The relationship between the state and federal agencies is an important role. This traditional role must be changed if we are to achieve success.

The first change in the relationship requires that local government be treated as an **equal and valued** partner. The difficulty in the current relationship is that local government often is charged with the implementation of many federal laws. Local Governments currently pay over one-fifth of the nation's \$150 billion annual investment in environmental protection. Governments who have the responsibility to implement legislation must also have a strong interactive relationship with the governmental entity that is charged with developing and overseeing the implementation of the law.

The present system does not lend itself to direct accountability at the state, regional and federal level for solving local government problems. We must institutionalize local government contacts both within the states and national agencies. These contacts must have the ability to access and influence the process within the bureaucracy, as well as to be informed as to the actions which impact local governments on a day-to-day basis within the Agency.

The development of a stronger partnership will not occur unless there is a fundamental change within the entire Agency. Radical and dramatic change is necessary to improve the Local Government-EPA relationship. Small incremental changes will not alter the existing relationship. We must alter the existing structures of bureaucracy and relationship if we are to overhaul and redesign the relationship. New ways of interacting are required if the relationship is to change and a new partnership is to be adopted.

#### **Current Command and Control Approach and Media Specific Local Government Approach**

The key to changing the relationship is to focus upon the current process and procedures that exist now. The Agency has by and large functioned under a command and control process. This approach can be characterized as a task-based approach. The Agency has seen a number of dramatic improvements in environmental protection as a result of this philosophy but not without inefficiency and wasted expenditures.

#### **New Benchmark Results Oriented, Cross Media Local Government Approach**

The new approach must focus upon a Results Oriented and Integrated approach. The costs of implementing current environmental programs are expensive, but the results are very difficult to quantify. States and local governments must have the flexibility to focus both their energy and financial resources on solving the problems that are a priority or represent the greatest threat to public health in their local area or utilize environmental methods which are suited to local conditions. Improved results can be achieved when local governments can apply their financial resources to the most important problems. Unless there is fundamental change in the current process, the partnership will not become a true partnership and develop to its full potential.

## Elimination of Organizational Barriers

One important factor which must be changed is the elimination of organizational barriers. In the current process, local and state government officials have to work their way through state, regional and federal bureaucracies in order to receive answers to many of their questions and provide meaningful input into the regulatory processes. This creates a number of problems because EPA officials often are forced to conclude that many of the rules are not objected to by local government officials because their comments and suggestions cannot and could not work their way through the bureaucratic maze to reach the right source.

## Commitment to Change

The most important fundamental factor in the success of this project is the commitment to change past practices. This commitment must be made by the EPA, the Administrator, the Assistant Administrators, the heads of each media office, as well as the Regional Administrators and the head of each regional media office. In order for any change to be effective, top management of the agency must make the commitment and commit the resources necessary to carry out the recommendations. These recommendations will also take an increased commitment on behalf of local governments. National associations, state associations and local governments must commit the time and energy to increase their involvement in the regulatory process.

The achievement of a process which integrates Local government input into the rulemaking process is the ultimate goal of this Federal Advisory Committee. The LOCAL GOVERNMENT ADVISORY COMMITTEE has looked at ways of strengthening the EPA-Local Government Partnership. The primary focus of the recommendations from the ACCESS TO RULEMAKING SUBCOMMITTEE is the improvement of both accessibility to the rulemaking process, active participation of all parties in the process as well as increasing accountability of all parties in the rulemaking process. The adoption of these recommendations will result in improving the customer based approach. The following are the recommendations of the Committee:

## ORGANIZATION CHANGES

### ENVIRONMENTAL PROTECTION AGENCY

#### CREATE A LOCAL GOVERNMENT ADVOCATE

##### Action Recommended:

1. Create a LOCAL GOVERNMENT ADVOCATE within the EPA.
  - a. This position will act as an advocate for local government within the Agency.
2. The Advocate would have the following duties:
  - a. Work and represent local/state government interests within the Agency.
  - b. Review and participate in all ongoing local/state government rule development.
  - c. Ensure that local/state government work groups have:
    1. Been contacted and input from local/state government sought at each step of the rulemaking process.
    2. Agency has reviewed and responded to all local/state government input and suggestions during the entire rulemaking process.
    3. Determined that the Agency has properly performed the regulatory flexibility analysis.
    4. Determined that the Agency has adequately considered regulatory options and alternative nonregulatory options.
  - d. In the event that the Local Government Advocate cannot assert that compliance with the abovementioned requirements has been achieved, the advocate could require additional contact and input from local/state government or additional analysis during the rulemaking process before a final rule could be issued.



Explanation:

A Local Government Advocate would work within the Agency to ensure that local and state government's viewpoints would be sought during the entire rulemaking process.

**INSTITUTIONALIZE LOCAL GOVERNMENT CONTACTS WITH A  
REALLOCATION OF PERSONNEL WITH LOCAL GOVERNMENT  
RESPONSIBILITIES IN THE EPA**

Action Recommended:

1. Establish a full time equivalent Local/state Government contact within each media office in headquarters to act as a liaison for local and state government officials for information on regulatory development as well as progress on the implementation of local government regulations.
2. Establish a dedicated person full time as Local Government Coordinator or Contact in each Region which would be in charge of Local/State Government Relations to: act as a liaison for local governments and provide information and technical assistance, identify local government contacts, educate local government officials on the impact of upcoming rules and regulations and the timeframe for input on proposed rules.
3. Insure that a dedicated person - full time - Local Government Contact is within each State for each program that a state takes over from the EPA.
5. Organize Local Government Contacts on the National, Regional, State and Media level to interact on all local government environmental issues.
6. In the event that the Regional Organization of the Agency is changed, establishment of the Local/State Government Contacts would be required prior to any reorganization to ensure the flow of information through and to state and federal regulators.
7. The Committee recognizes the current budgetary constraints of U.S.EPA and accordingly recommends that the U.S.EPA reallocate existing personnel dedicated to local government issues as noted in the previous recommendations.



**Explanation:**

Local and State governments have often been left out of the Agency's priorities due to the need to implement a vast variety of programs in conjunction with state environmental protection agencies. This relationship needs to be changed in the decade ahead. If we are to continue the progress achieved during the last two decades, Local and State Governments will need to be treated as full partners in the rulemaking process.

Local governments implement both state and federal programs and, therefore, have very separate and distinct information needs. The current Administration has greatly expanded the EPA-Local Government relationship over the last two years. A pressing need for Local Governments is information, input, influence, and the ability to get answers from the agency offices in order to select economically feasible ways of implementing environmental regulations.

This goal can be achieved in several ways. One way is to place Local and State Government contacts within each media office at the national and regional level. This would establish a contact point that could readily access information within the Agency. The second aspect that must be considered is the need for Local and State Government to have direct access through the local government office to the Administrator. This function can be most readily achieved by having one separate office based in Washington with day-to-day access to the Administrator.

The present Administration has set up an ambitious program to integrate local and state government contacts into the decisionmaking process at EPA. This is an important first step in developing a strong working relationship with the Agency.

**ESTABLISH MINIMUM EXPERIENCE STANDARDS FOR RULEWRITERS  
AND REGULATORS**

**Action Recommended:**

1. Require two years of experience implementing federal rules and regulations as a minimum standard for employment as a rule writer or regulator, two years of experience implementing federal rules and regulations at the state or local level as a minimum standard for employment for all rule writing which effects local government or, require two years of experience implementing federal rules and regulations at the regional level within the EPA.

2. Establish minimum standards for local and/or state government experience for each work group dealing with local and state government regulations and rules.

**Explanation:**

The 1995-68048 NAPA (National Academy of Public Administration) report recommends that writing national standards into federal regulation would continue to be a central responsibility of the Agency and would be consolidated into a single Agency organization. In order to achieve this goal, it is imperative that the rule writers have a real working world knowledge of implementing regulation.

## LOCAL GOVERNMENT CHANGES

### ESTABLISH STATE/LOCAL GOVERNMENT COORDINATING ORGANIZATION

#### Action Recommended:

1. Create and reallocate funding for a National Level Local/State Government Regulatory Coordination Committee to coordinate interaction between the EPA, State and Local Governments. Representatives should include individuals with experience from County, City, Township and State Government. Local Government Access Points in Regulatory Development would include:

- a. Increased involvement of Local and State Government during the scoping and decisionmaking process.
- b. Participation of Local and State Government in EPA's Working Group for regulations which impact local government.
- c. Establishment of a Local and State Government program to participate in the regulatory flexibility analysis process with the EPA.
- D. Work with EPA and states to establish priorities and reallocate resources.

#### Explanation:

There is a great need to reallocate Agency resources to create a separate independent Local/State Government organization which is focused solely upon coordinating regulatory development and local and state government interaction with the EPA. The most important interaction to focus on is the scoping , alternative analysis, and decisionmaking processes. During the scoping process, the Agency prioritizes and makes key decisions as to the direction that an Agency rule will take. It is imperative that local governments be consulted during the process.

A coordination committee would focus upon rulemaking interaction within the EPA at the national level, the regional level, and the state level. Agency action on this proposal would allow for the reallocation of resources and improve the overall responsiveness of the agency to Local and State Government concerns.

1. Establish a State/Local Government Coordinating Council, which would review regulatory initiatives and identify regulations which would impact local governments.

Representatives on the Council may include:

National Association of Counties  
National League of Cities  
National Governors Association  
International City County Managers Association  
U.S. Conference of Mayors  
National Association of Regional Councils  
National Association of Towns of Townships  
Advisory Commission on Intergovernmental Regulations  
National Association of Regulatory Utility Commissioners  
National Association of State Drinking Water Administrators  
Council of Infrastructure Financing Authorities  
Rural Water Resources RHI-RCAP  
National Association of Rural Water Associations  
The Environmental Council of the States  
Public Employee Organization representatives (e.g., American Federation of State, County and Municipal Employees, Service Employees International Union)

Explanation:

The difficulty faced by many local and state units of government is that by the time that they become aware of environmental regulations which directly impact their governmental operations the rules have become final.

The adoption of the Access to Rulemaking Subcommittee's recommendations will correct the current deficiency in the system by identifying the affected entities at the beginning of the process and providing consistent coordination and input throughout the entire regulatory process. Local government working groups could then be formed to review the proposals and provide information to the regulators in a timely and informative fashion.

## PROCEDURAL CHANGES

### LOCAL GOVERNMENT COLLABORATION ON RULEMAKING

#### Action Recommended:

1. That the EPA, both national and regional organizations, States and Local Governments develop working relationships for collaboration on local government rules and regulations to assist in the development of federal rules and regulations and their implementation in the following areas:

- a. Establish a program for Pre-Regulatory Agenda consultations on new regulatory proposals.
- b. Enact a Local Government waiver to allow Local or State Government representatives to participate in regulation development meetings with the EPA.
- c. Expand the practice of regulatory negotiations for local government rules and regulations as identified in the March 16, 1995 report, Reinventing Environmental Regulation.
- d. Increase EPA-State-Local Government interaction on rule development and regulatory alternatives.
- e. Expand collaboration on cost estimates of proposed rules.

### LOCAL GOVERNMENT CONTACTS

#### REQUIREMENT OF LOCAL GOVERNMENT CONTACT

#### Action Recommended:

1. The Agency shall identify the impacted units of government and contact local and state governments or their association representatives on all rules impacting local and state government and during the scoping and decisionmaking process for local government rules.

#### Explanation:

Requiring contacts with local and state government during regulatory development will increase communications between the



two parties and will improve the overall results achieved in the rulemaking process. The organizational changes recommended in this report would allow this.

## REPORTING OF LOCAL GOVERNMENT CONTACT AND INPUT

### Action Recommended:

1. Expand the office and personnel dedicated to Local and State Government issues within the EPA to increase the focus on Local and State Government issues.
2. Place EPA Local Government Representatives dedicated full time on a national and regional level.

### Explanation:

One of the current problems that local governments face is the lack of one centralized contact point to identify concerns of local government units. Local governments often have very similar problems and lack the ability to identify common problems as well as identify solutions to these problems.

Require the reporting of local government contacts and inquiries at one central location either through an online Internet application, or through the development of a separate publication or disc compilation of the local government interaction as well as the agency's responses to the inquiries for each rule and regulation of concern to local government.

## ESTABLISH LOCAL GOVERNMENT WAIVER AND EXEMPTIONS PROCEDURES

### Action Recommended:

1. Establish clear, straightforward, standardized, national exemption or waiver procedures when permissible by statute for local governments who can demonstrate equivalent protection or contaminants that are not present in their environment.
2. Establish testing or performance criteria which is suited to the particular geographic region.

**Explanation:**

One difficult problem that many local governments face is compliance with federal rules and regulations which do not apply to their particular regional situation. For example, many local governments are forced to test for substances which are not present in their water systems. There needs to be a clear uniform national procedure to apply for waivers and/or exemptions for work that does not need to be performed or has little or no benefit if performed. In addition, local governments must also have the ability to reduce testing requirements to a level which is justified by their particular region or local conditions. There is a vital need to provide for community-based environmental protection.

**IDENTIFICATION OF RISK  
COST/BENEFIT ANALYSIS**

**Action Recommended:**

1. EPA shall identify the impacted unit of government and prepare an initial cost estimate on the development of any and all regulations and any reasonable alternatives. This estimate shall include the following estimates:

- a. Identification of current federal regulations which will be changed with the implementation of present proposed regulation.
- b. Cost of compliance in regulated governmental unit under current federal regulations if applicable.
- c. Breakdown of costs of current compliance by regulated local government unit.
- d. Identification of current practices and procedures which will be changed.
- e. Identification of health-based risk to population under current practices and projected reduction of health based risk under proposed regulation.
- f. Estimate of costs of proposed regulations which would include a cost/benefit analysis of the regulatory alternatives that could be selected to implement the regulation when appropriate and useful.

Explanation:

One primary difficulty faced by local and state government is the fact that little if any information is available about the current cost of the regulation, as well as the potential cost for new regulations. Local and state governments often need to estimate the financial impact of a variety of new regulations. The cumulative impact of these regulations in many instances force local government to eliminate needed services such as providing local ambulance services, health services, and other necessary services.

Estimating the cost of the proposed rule will also require that the EPA examine the economic impact upon local and state government as the rule is developed to achieve a practical, common sense approach to rule development.

# INFORMATION NEEDS CHANGES

## AMENDING THE REGULATORY AGENDA

The entry point to the rulemaking process for a majority of Local and State Governments is the REGULATORY AGENDA which is published every six months.

There are a number of areas in which the Regulatory Agenda could be improved in both the amount of information provided and the format of the information. The abstract of the regulation is one area which needs dramatic improvement.

### ABSTRACT INFORMATION

#### Action Recommended:

1. Additional information is required in each and every abstract so that local governments can determine what the regulations will impact and what issues are under consideration. Additional space is available in a number of fields in the current regulatory agenda. This would allow the amount of information to be increased and the quality of the information to be improved. The quality and the breadth of information needs to be improved in the abstract. Suggested information needs include:

- a. Description of the rule needs to be expanded.
- b. Timetable for development of the rule.
- c. Impact of the rule on current practices.
- d. Cost of the rule.
- e. Alternatives to the rule.
- f. Non-regulatory alternatives.

2. The regulatory agenda also needs to adopt a format which allows for the development of an Executive Summary which identifies the impact and direction of the rule and is placed into layman's language with the clearly identified objectives of the proposed rule.



**Explanation:**

The current abstract of ongoing rule development does not contain clear and informative information regarding a proposed rule and does not clearly identify the impacted local government unit and how that local government is affected by the proposed rule.

**IDENTIFICATION OF COMMITTEE REPORTS AND CONCLUSIONS  
IN THE REGULATORY AGENDA**

**Action Recommended:**

1. Provide more information about third party reports and actions of committees identified in the Regulatory Agenda.
2. Identify the basis for conclusions recommended by third parties and committee recommendation.
3. Provide access to these reports by allowing access to committee or third party reports, minutes, and committee members through Internet or other computerized sources.
4. U.S.EPA must provide all parties with a full and complete response to all other parties' comments and recommendations, including how comments are addressed.

**Explanation:**

One problem that is often noted is that the abstract often contains references to a variety of third party reports and committees actions. The reports of the committees or third parties are often so oblique that the reader cannot ascertain who is involved, or how long the committee has been meeting, or cannot obtain copies of committee action in any timely fashion.

The second problem often encountered is that the abstract often refers to conclusions reached by the very same committees and third party reports. The abstract, however, does not discuss what the committees conclusions are or in many cases what recommendations have been reached and why. In other cases committee recommendations are rejected. No information is provided any information as to why certain recommendations were rejected and others were approved.



## ACCESSIBILITY OF REGULATORY AGENDA INFORMATION

### Action Recommended:

1. Access to the Regulatory Agenda could be greatly improved by making it directly available on the INTERNET system and should include the following:

a. Regulatory Agenda.

b. Supporting information which is cited in the regulatory agenda including all reports and conclusions cited in the agenda. Decisionmakers must notify users as to how issues are resolved.

c. Supplemental information to be made available on the INTERNET would include:

a. Proposed rules.

b. Testimony and comments on proposed rules.

c. EPA's response to comments and recommendations.

d. Information used to develop proposed rules.

e. Local and state government contacts and inquiries.

2. Develop a separate REGULATORY AGENDA which contains the proposals which only effect LOCAL GOVERNMENT. This could be made available on computer disk or through a separate publication.

3. Requests for further information on proposed regulations could also be improved by designing an order form which would automatically obtain full text copies of the proposed regulation from the EPA through INTERNET, by computer disk or through publications.

4. Provide an improved indexing system for the REGULATORY AGENDA.

5. Develop a computer disk version of the REGULATORY AGENDA which would allow the information to be sorted by field so that the information in the agenda could be reviewed quickly and easily by regulated entities.

### Explanation:

The current regulatory agenda needs to be reorganized to improve both the ability of the public and government to obtain information as well as improve the ability to review the proposals in a quick and timely manner. Local and state governments need to be able to access information in a variety of

ways including publications, computerized research tools, and through the INTERNET as the technology and the resources become available for use in local government. This concept has been embraced by the March, 1995 report Reinventing Environmental Regulation.

## PARTNERSHIP CHANGES

### ESTABLISHMENT OF VOLUNTARY LOCAL AND STATE GOVERNMENT INITIATIVES

#### Action Recommended:

1. Identify and prioritize initiatives which the EPA and local and state government can work together on a voluntary basis to improve the environment.

#### U.S. EPA

#### Action Recommended:

1. The Administrator should establish a Task Force consisting of a broad-based constituency that not only includes government but also business representatives to examine the application of rules on a region-by-region basis to ensure consistent interpretation of the rules and regulations, as well as identify areas which will require regulatory flexibility as recommended by the April, 1995 GAO Report on EPA and the States.

# LEGAL CHANGES REQUIRED

## REGULATORY FLEXIBILITY ACT

### Action Recommended:

1. Properly enforce the Regulatory Flexibility Act to evaluate new and old rules for their impact on small business and local government.
2. Expand the analysis required under the Regulatory Flexibility Act to include non regulatory alternatives.

### Explanation:

One of the important tools for local government is the analysis which is required by the Regulatory Flexibility Act. While it was felt by some members that the analysis required by the Act was not currently being performed to the degree required by the Act, the Congress of the United States apparently agreed. On March 29, 1996, The President signed into law the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996. The Act will have a profound impact on the way that U.S. EPA conducts its regulatory Flexibility Analysis. For this reason it is believed that any additional recommendations should properly wait until the Agency has time to fully understand and implement SBREFA. The Agency should be placed on notice, however, that if the LGAC feels that the Act is still not being properly implemented, it will reopen this report and make additional recommendations.



# EVALUATION OF PARTNERSHIP PROGRESS

## REVIEW OF PROGRESS OF LOCAL GOVERNMENT INITIATIVES

### Action Recommended:

1. Establish an independent review by LGAC of local government initiatives proposed in this report which would evaluate:
  - a. Current state of EPA-State EPA-Local government interaction.
  - b. Establish and identify goals for improving the EPA Local government interaction.
  - c. Evaluate Agency progress in achievement of goals.
  - d. Evaluate Local Government progress in achievement of goals and quality of interaction.
  - e. Provide a yearly progress report to the Administrator and LGAC.

### Explanation:

One of the biggest problems in implementing any change in and to the regulatory process and the interaction between local government and the EPA is a method of evaluating the process and determining whether any progress is made in achieving the goals of the program. Determining whether progress is made will also be more difficult because an evaluation will have to be made of progress within each region and each state.